

Jim McDonnell, Sheriff

County of Los Angeles

Sheriff's Department Headquarters

4700 Ramona Boulevard

Monterey Park, California 91754-2169



May 21, 2015

Deputy Alexandro Gonzalez, #[redacted]

Dear Deputy Gonzalez:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of two (2) days.

An investigation under IAB File Number 2378949, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. The in violation of Department's Manual Policy and Procedures, Section(s) to 3-01/030.10, Obedience to Laws, Regulations, and Orders (specifically pertaining to 5-09-210.02, Initiation of a Pursuit), on or about November 10, 2012, while on duty, you failed to broadcast on a Sheriff's Communications Center access channel and timely advise Sheriff's Communication Center that you were engaged in a vehicle pursuit, and/or failed to provide the area watch commander with the necessary pursuit information as mandated by policy.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

Prior to determining this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

At the time of service of this letter of intent, you were provided with a copy of the material on which the discipline is based. If you are unable to access the information provided in the enclosed CD, you may contact Jacqueline Powell, of Internal Affairs Bureau, at (323) 890-5311, and arrange an appointment for assistance in this regard.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Original Signed

Ernest E. Chavez, Captain
Century Station

EEC:DLM:jp

cc: Advocacy Unit
Employee Relations Unit
Chief Bobby D. Denham, Central Patrol Division
Internal Affairs Bureau
(File # IAB 2378949)



Jim McDonnell, Sheriff

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



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Deputy [redacted], #[redacted]
[redacted]

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EEC:DLM:jp

cc: Advocacy Unit
Employee Relations Unit
Chief Bobby D. Denham, Central Patrol Division
Internal Affairs Bureau
(File # IAB 2378949)

761551N52A – SH-AD (11/90)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

OFFICE CORRESPONDENCE

DATE: May 8, 2015

FROM: STEPHEN B. JOHNSON, COMMANDER
CENTRAL PATROL DIVISION

TO: DONNIE MAULDIN, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS

Case Number:	SH2324530
Incident:	Hit Shooting
Incident Date:	November 10, 2012
Unit:	Century Station
Suspect:	De La Trinidad, Jose MH/12/03/75
Involved Employees.	Deputy [redacted] #[redacted] Deputy Alexandro Gonzalez #[redacted] Deputy Darrel Cusiter #[redacted] Deputy Erik Sibrian #[redacted]
EFRC Date:	May 7, 2015

The Executive Force Review Committee (EFRC) consisting of Commanders Stephen B. Johnson, David E. Halm, and Ralph J. Webb met and reviewed the above case.

FINDINGS:

The EFRC determined the use of deadly force was in policy; however, the tactics used against the suspect violated the Department's Manual of Policy and Procedures, Section(s) 3-01/030.10, Obedience to Laws, Regulations and Orders (specifically pertaining to 5-09/210.02, Vehicle Pursuits).

RECOMMENDATIONS:

The EFRC recommended a 2 day suspension for Deputies [redacted] Gonzalez and Cusiter and a 3 day suspension for Deputy Sibrian.

SBJ:JRB:jrb

DISPOSITION WORKSHEET

Re: IAB IV 2378949
Subject: Gonzalez, Alexandro #[redacted]
Investigator: Eric Barron, Internal Affairs Bureau
Advocate: Paul Patterson, Advocate

DISPOSITION OF CHARGES

The following potential charges were prepared by the Advocacy Unit. Please indicate your disposition of the potential charges, and put any additional sustained charges (with reference to the investigation) on attached sheet(s).

Potential Charge(s):

The evidence in this investigation supports the following charges:

a. That in violation of the Department's Manual of Policy and Procedures, Section(s) 3-01/030.10, Obedience to Laws, Regulations, and Orders (specifically pertaining to 5-09/210.02, Initiation of a Pursuit), on or about November 10, 2012, while on duty, Subject Gonzalez failed to broadcast on a Sheriff's Communications Center access channel and timely advise Sheriff's Communication Center that he was engaged in a vehicle pursuit, and/or failed provide the area watch commander with the necessary pursuit information as mandated by policy.

Evidence Reference:

____

Defenses/Conflicting Evidence:

____

Disposition:

__X__ **Charge founded as delineated**
_____ **Charge founded as modified**
_____ **Charge unresolved**
_____ **Charge unfounded**

Discipline Assessment

Review of Applicable Guidelines for discipline Section:

The Department's Guidelines for Discipline (Revised December 14, 2009) lists the following Analogous misconduct with associated disciplinary penalties:

Conduct	Standard Discipline
Obedience to Laws, Regulations, and Orders	W/R to Discharge
Vehicle Pursuits	W/R to Five Days

Determination of Discipline:

Based upon the attached assessment of mitigating and aggravating factors, the following discipline has been determined to be appropriate. This discipline is subject to revision upon receipt of the subject's response of grievance.

_____ **Discharge**
_____ **Reduction in Rank**
__X__ **Suspension with loss of pay and benefits for __2__ days**
_____ **Written Reprimand**
_____ **No discipline**

Assessment of Mitigating and Aggravating Factors:

The following describe the mitigating and aggravating factors in the determining the discipline in this investigation. Those factors include:

Intent	Truthfulness
Past Performance	Severity of Infraction
Degree of Culpability	Acceptance of Responsibility
Disciplinary History	Other Factors

Management has considered the subject's performance, which is documented in the Subject's Department personnel file, and those documents not contained in that file which are attached to the disposition worksheet.

DISPOSITION WORKSHEET

Re: IAB IV 2378949
Subject: [redacted] #[redacted]
Investigator: Eric Barron, Internal Affairs Bureau
Advocate: Paul Patterson, Advocate

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Evidence Reference:

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<u>**Table of Contents**</u>

IAB # SH2324530

I - Pursuit Evaluation Form submitted by Century Station personnel Under File# 012-16889-2137-013 (Pursuit that occurred after the initial traffic stop)

MISCELLANEOUS DOCUMENTS

Administrative Rights Force/Shooting Investigation Forms
Internal Affairs Chief's Memo
Century Station PM Shift In-Service for November 10, 2012
Century Station EM Shift In-Service for November 11, 2012

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date:	Bureau/Station/Facility:	Admin. Invest.?	Hit?
11/10/12	Century Station	[ ]	[x]

Incident Information

URN: 012-16889-2137-013		Date: 11/10/12	Time: 2218
City or Station: Los Angeles (Unincorporated Area)		Nature of Incident: DEPUTIES SHOT SUSPECT, AS HE MADE FURTIVE MOVEMENTS TOWARD HIS WAISTBAND, BELIEVING HE WAS ATTEMPTING TO ARM HIMSELF. SUSPECT DIED AT SCENE.	
Location: [redacted] East 122nd Street, Los Angeles (Unincorporated Area)			

Location Type (check one or more):
- [ ] Backyard
- [ ] Beach
- [ ] Business
- [ ] Freeway
- [ ] Industrial
- [ ] Park
- [ ] Parking Lot
- [ ] Residence
- [ ] Rural
- [ ] School
- [x] Street
- Other:

Lighting (check only one):
- [x] Darkness
- [ ] Daylight
- [ ] Other
- [ ] Street Lights

Weather (circle only one):
- [x] Clear
- [ ] Cloudy
- [ ] Fog
- [ ] Rain

Distance:

Incident Type (check one or more):
- [ ] Accidental
- [ ] Armed Person
- [x] Fleeing Suspect
- [ ] Foot Pursuit
- [ ] Gun Take Away
- [ ] Moving Vehicle
- [ ] Sniper/Ambush
- [ ] Startle
- [ ] Struggle Involved
- [ ] Traffic Stop
- [x] Unarmed Person
- [ ] Unintentional
- [x] Vehicle Pursuit
- [ ] Warrant Service
- [ ] Warning Shot
- Other:

Initiated by (check only one):
- [ ] Arrest Warrant
- [ ] Call
- [x] Observation
- [ ] One Person Unit
- [ ] Other
- [ ] Search Warrant
- [ ] Two Person Unit

Prior Activity (check only one):
- [ ] Detective
- [ ] Inmate Transport
- [ ] Other
- [x] Routine Patrol

Aero Unit? [ ] Canine Unit? [ ]

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect
8	0

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (check only one)	ShiftType (check only one)
[redacted]	Cusiter	Darrel	S.	[ ] EM [x] PM [ ] Day	[x] Regular [ ] Overtime [ ] Off Duty
[redacted]	Sibrian	Erick	O.	[ ] EM [x] PM [ ] Day	[x] Regular [ ] Overtime [ ] Off Duty
				[ ] EM [ ] PM [ ] Day	[ ] Regular [ ] Overtime [ ] Off Duty

Non-Employee Witnesses

Last Name: [redacted]		First Name: [redacted]		M.I.
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph	Home Ph: [redacted]
Last Name: [redacted]		First Name: [redacted]		M.I.
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph	Home Ph
Last Name: Augustine		First Name: Jobe		M.I. [redacted]
Street Address: 1104 North Mission Road	City: Los Angeles	Zip Code: 90033	Work Ph: (323) 343-[redacted]	Home Ph: [redacted]

Supervisors

Employee #	Last Name	First Name	M.I.	(check one or more)
[redacted]	Ovalle	Jose		[x] On Duty [ ] Present during shooting [ ] Witness to shooting [ ] Involved in shooting
[redacted]	Lombardo	Paul		[x] On Duty [ ] Present during shooting [ ] Witness to shooting [ ] Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Espeleta	Francis	G.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Navarrete	Ronald	G.

PSTD Use Only

SH # 2324530

SUPPLEMENTAL NON-EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	Zip Code	Work Ph	Home Ph
Barros	Selena	#[redacted]	1104 North Mission Road, Los Angeles	90033	(323)343[redacted]	[redacted]

Officer Involved Shooting

RN: 012-16889-2137-013

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
11/11/12	0045	11/12/12	

Employee #	Last Name	First Name	M.I.
[redacted]	Velasquez	Hector	
[redacted]	Martinez	Richard	J.
[redacted]	Libertone	Patrick	L.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(SS) SIG Sauer
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	FH						
S#1	E#2	FH						
E#1	S#1	FH	BR	9	Y	Y	GS	BK
E#2	S#1	FH	BR	9	Y	Y	GS	BK

Officer Involved Shooting
Involved Employee Information

URN: 012-16889-2137-013

Involved Employee

E 1

Employee # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Sex[redacted] Race:[redacted]	Rank: Deputy	Unit [redacted]	Work Assignment (Unit #, [redacted]):
ShiftTime (*circle only one*): [redacted]EM [redacted]PM [redacted]Day	ShiftType (*circle only one*): [redacted]Regular[redacted]Overtime[redacted]Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting: 8	Duty Time (hrs): 10	Clothing (*circle only one*): ☐ Plain Clothes no Vest ☐ Plain Clothes w/ Vest ☐ Raid Jacket no Vest ☐ Raid Jacket w/ Vest ☐ Uniform no Vest ☑ Uniform w/ Vest	Other Factors:
Age: [redacted]	Height: [redacted]	Weight: [redacted]	
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Beretta	Caliber 9mm	# Shots 5	Weapons Fired Brand: Caliber # Shots
Field Training Officer Emp #[redacted]ast Name [redacted]		First Name [redacted]	M.I. [redacted]
Field Training Officer Emp #[redacted]ast Name [redacted]		First Name [redacted]	M.I. [redacted]

E 2

Employee # [redacted]	Last Name Gonzalez	First Name Alexandro	M.I.
Sex: M Race: H	Rank: Deputy	Unit Assignment: Century Station	Work Assignment (Unit #, Module, etc.): 214E
ShiftTime (*circle only one*): ☐ EM ☑ PM ☐ Day	ShiftType (*circle only one*): ☑ Regular ☐ Overtime ☐ Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting: 6-8	Duty Time (hrs): 10	Clothing (*circle only one*): ☐ Plain Clothes no Vest ☐ Plain Clothes w/ Vest ☐ Raid Jacket no Vest ☐ Raid Jacket w/ Vest ☐ Uniform no Vest ☑ Uniform w/ Vest	Other Factors:
Age: [redacted]	Height: 510	Weight: 225	
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Beretta	Caliber 9mm	# Shots 3	Weapons Fired Brand: Caliber # Shots
Field Training Officer Emp #[redacted]ast Name [redacted]		First Name [redacted]	M.I. [redacted]
Field Training Officer Emp #[redacted]ast Name [redacted]		First Name [redacted]	M.I. [redacted]

E

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank:	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): ☐ EM ☐ PM ☐ Day	ShiftType (*circle only one*): ☐ Regular ☐ Overtime ☐ Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): ☐ Plain Clothes no Vest ☐ Plain Clothes w/ Vest ☐ Raid Jacket no Vest ☐ Raid Jacket w/ Vest ☐ Uniform no Vest ☐ Uniform w/ Vest	Other Factors:
Age:	Height:	Weight:	
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings: Directed Force: ☐
Weapons Fired Brand:	Caliber	# Shots	Weapons Fired Brand: Caliber # Shots
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting
Suspect Information

Suspect Information

S 1

Last Name: De la Trinidad	First Name: Jose	M.I.
AKA Last Name	First Name	M.I.
Sex: M Race: H	Street Add[redacted] City [redacted]	[redacted]
Work Phone:	Home Phone: Social Secu[redacted]	Driver's Licen[redacted]
Age: 36 D.O.B. 12/03/75	Height: 5'11 Weight: 135 FBI # [redacted]	CII # [redacted]
Booking #	Primary Charge:	Secondary Charge:
Coroner Case? ☐	Coroner Case # 2012-07392 Intoxication/Drug Usage? ☑	Substance Used: Alcohol/Marijuana
Armed? ☐	Apprehended? ☑ Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make: Nissan	Model: Maxima	Year: 1991

S

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.
Sex: Race:	Street Address: City	State & Zip Code:
Work Phone:	Home Phone: Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight: FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:
Coroner Case? ☐	Coroner Case # Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐ Mental Illness? ☐	Criminal History? ☐
Vehicle Make	Model:	Year:

S

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.
Sex: Race:	Street Address: City	State & Zip Code:
Work Phone:	Home Phone: Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight: FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:
Coroner Case? ☐	Coroner Case # Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐ Mental Illness? ☐	Criminal History? ☐
Vehicle Make	Model:	Year:

S

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.
Sex: Race:	Street Address: City	State & Zip Code:
Work Phone:	Home Phone: Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight: FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:
Coroner Case? ☐	Coroner Case # Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐ Mental Illness? ☐	Criminal History? ☐
Vehicle Make	Model:	Year:

See Other Side

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY

Incident: Deputy Involved Hit Shooting

LASD File #: 912-16889-2137-013

IAB File: SH2324530

OPENING STATEMENT

On Saturday, November 10, 2012, Internal Affairs Bureau (IAB) investigators Sergeant Hector Velasquez, Sergeant Richard Martinez, and Lieutenant Patrick Libertone responded to [redacted] East 122nd Street, regarding a deputy involved hit shooting in the unincorporated area of the city of Los Angeles. Internal Affairs Bureau Investigators and the Office of Independent Review were briefed regarding the circumstances of the Deputy Involved Shooting. Sergeant Barron was assigned the administrative review of the incident.

SUMMARY

On Saturday, November 10, 2012, Deputies Alexandro Gonzalez and Darrel Cusiter were working as partners assigned to Unit 214E in the Athens District. Deputy Cusiter was the driver and Deputy Gonzalez was the bookman. At approximately 2218 hours, the deputies were driving eastbound on El Segundo Boulevard toward Willowbrook Avenue when they saw a white, 4-door vehicle occupied by two male Hispanics, driving westbound, toward them, at a high rate of speed. Deputy Cusiter made a U-turn and tried to catch up to the suspect vehicle, which was now quite a distance ahead of them.

The suspect vehicle continued to travel westbound on El Segundo Boulevard at a high rate of speed and made a northbound (right) turn onto Wilmington Avenue, against a red traffic signal. The deputies queried the license plate of the suspect vehicle via the Mobile Digital Computer (MDC) in their patrol car. The information from the query revealed there had been a registered owner change.

As Deputy Cusiter closed the distance between he and the suspect vehicle, he saw the driver, [redacted] and passenger, Suspect Jose De la Trinidad (hereafter referred to as Suspect Jose), making furtive movements. He described the furtive movements as being from "side to side" and in a manner that led him to believe the occupants were either trying to conceal or retrieve something.

Deputies Cusiter and Gonzalez conducted a traffic stop on Wilmington Avenue, between El Segundo Boulevard and 126th Street. Deputy Cusiter described the manner in which the suspect vehicle yielded to the traffic stop as an abrupt transition, from the number one lane to the curb line, which made him think the driver was annoyed.

Deputy Cusiter approached the suspect vehicle on the driver's side and Deputy Gonzalez approached on the passenger side. As Deputy Cusiter neared the suspect vehicle, he used his flashlight and the flashlight attached to his 9mm Beretta to illuminate the interior of the car, which was also illuminated by their patrol car's spotlights. When he was near the driver's side rear quarter panel of the suspect vehicle, he saw [redacted] (driver) hand a black handgun to Suspect Jose (passenger). He thought Suspect Jose was going to get out of the car, but [redacted] sped away northbound on Wilmington Avenue.

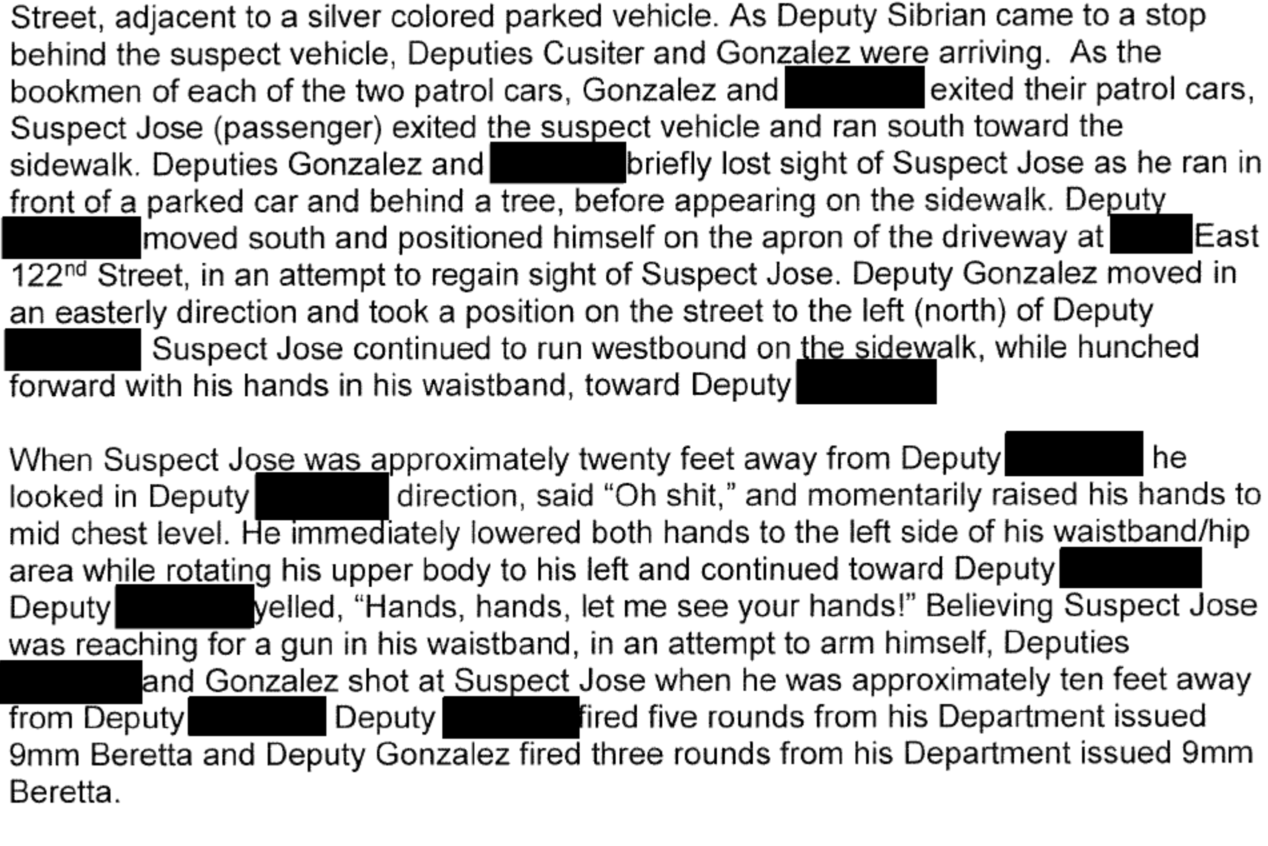
As Deputy Gonzalez approached the suspect vehicle, he noticed [redacted] looking in his direction as both occupants were moving within the passenger compartment of the car. When Deputy Gonzalez got closer to the car, he saw [redacted] (driver) hand a black handgun to Suspect Jose (passenger). Before Deputy Gonzalez had time to react, the suspect vehicle sped away northbound Wilmington Avenue.

Unit [redacted] Deputies Sibrian and [redacted] happened upon the traffic stop and were coming to a stop behind Unit 214E as the suspect vehicle sped away. As Deputies Cusiter and Gonzalez were running back to their patrol car, they saw Unit [redacted] and told them to go after the suspect vehicle. Deputy Gonzalez yelled to Deputies Sibrian and [redacted] "417 vehicle, go,go,go." Deputy Cusiter told Deputies Sibrian and [redacted] "Get em, get em."

IAB Note: "417" is a term used in the law enforcement profession to communicate the presence of a gun to fellow officers. Its origin is pursuant to Penal Code section 417, brandishing a firearm.

Deputies Sibrian (driver) and [redacted] (bookman) pursued the suspect vehicle northbound on Wilmington Avenue. Deputy Sibrian did not have his forward facing emergency lights activated as he tried to catch up to the suspect vehicle, however, he thought he might have had his amber lights flashing to the rear.

Deputies Cusiter and Gonzalez got back into their patrol car and also drove northbound on Wilmington Avenue, in an attempt to catch up to the suspect vehicle. Deputy Gonzalez remembered seeing the rear facing amber lights of Unit [redacted] activated as he and Deputy Cusiter were driving behind them. The suspect vehicle made an eastbound turn onto 122nd Street from Wilmington Avenue, and momentarily lost control while negotiating the turn. When Deputy Sibrian turned onto 122nd Street, he activated his forward facing overhead lights and the suspect vehicle stopped in front of [redacted] 122nd



Street, adjacent to a silver colored parked vehicle. As Deputy Sibrian came to a stop behind the suspect vehicle, Deputies Cusiter and Gonzalez were arriving. As the bookmen of each of the two patrol cars, Gonzalez and [redacted] exited their patrol cars, Suspect Jose (passenger) exited the suspect vehicle and ran south toward the sidewalk. Deputies Gonzalez and [redacted] briefly lost sight of Suspect Jose as he ran in front of a parked car and behind a tree, before appearing on the sidewalk. Deputy [redacted] moved south and positioned himself on the apron of the driveway at [redacted] East 122nd Street, in an attempt to regain sight of Suspect Jose. Deputy Gonzalez moved in an easterly direction and took a position on the street to the left (north) of Deputy [redacted] Suspect Jose continued to run westbound on the sidewalk, while hunched forward with his hands in his waistband, toward Deputy [redacted]

When Suspect Jose was approximately twenty feet away from Deputy [redacted] he looked in Deputy [redacted] direction, said "Oh shit," and momentarily raised his hands to mid chest level. He immediately lowered both hands to the left side of his waistband/hip area while rotating his upper body to his left and continued toward Deputy [redacted] Deputy [redacted] yelled, "Hands, hands, let me see your hands!" Believing Suspect Jose was reaching for a gun in his waistband, in an attempt to arm himself, Deputies [redacted] and Gonzalez shot at Suspect Jose when he was approximately ten feet away from Deputy [redacted] Deputy [redacted] fired five rounds from his Department issued 9mm Beretta and Deputy Gonzalez fired three rounds from his Department issued 9mm Beretta.

IAB Note: Scientific Services Bureau recovered eight 9mm cartridge casings from the scene; see pages 71 and 134 of the Homicide Book (Exhibit A).

Suspect Jose sustained four fatal gunshot wounds and three nonfatal gunshot wounds. Paramedics were requested for Suspect Jose who was pronounced dead at the scene at 2240 hours.

Homicide detectives documented their investigation of the incident in their Homicide Book **(Exhibit A)**. **Volume II** of this case is the Homicide Book **(Exhibit A)**. The District Attorney's Office reviewed the investigation and authored a Letter of Opinion stating Deputies Gonzalez and [redacted] acted within the law and there would be no further action from the District Attorney. For more information, see the Letter of Opinion **(Exhibit B)**.

At about the same time Deputies Gonzalez and [redacted] shot at Suspect Jose, the suspect vehicle fled the scene. After ensuring their partners were safe, Deputies Sibrian and Cusiter pursued the suspect vehicle. Deputy Sibrian was the first to leave the scene in pursuit of the suspect vehicle and broadcasted his vehicle pursuit on Dispatch 4.

A short time later, he (Sibrian) crashed into the center median at El Segundo Boulevard and Central Avenue, immobilizing his patrol car. Deputy Cusiter lost sight of Deputy Sibrian and the suspect vehicle by the time he left the shooting scene, and was not involved in the pursuit. With the help of radio traffic, he found Deputy Sibrian in his immobilized patrol car, and ensured he was not injured. At the direction of Deputy Sibrian, Deputy Cusiter continued westbound on El Segundo Boulevard and found the unoccupied suspect vehicle, which had crashed into the center median at El Segundo Boulevard and Avalon Boulevard. A containment was established and [redacted] was taken into custody approximately one hour after the deputy involved shooting occurred. The vehicle pursuit in which Deputy Sibrian collided was documented by Century Station staff, and is submitted as **Exhibit C** of this administrative review.

IAB Note: **A firearm was not found on Suspect Jose at the shooting scene or in the suspect vehicle. Nor was [redacted] in possession of a firearm at the time he was taken into custody.**

Internal Affairs Bureau investigators utilized photographs of the scene of the deputy involved shooting during their interviews with Department members. The photographs were used to develop an understanding of the positioning of the involved employees at the time of the shooting. The photographs used in the interviews with Deputies Cusiter, [redacted] and Gonzales are submitted as **Exhibits D through F**, respectively.

IAB investigators went to the home address [redacted] Apartment [redacted] Los Angeles) listed on the Homicide Bureau reports for Witness [redacted] in an attempt to clarify some topics from her interview with Homicide Bureau investigators. IAB investigators contacted [redacted] at the listed address, and discovered Witness [redacted] moved from the apartment in March of 2014. [redacted] does not know [redacted] nor did she have a forwarding address for them. She allowed IAB investigators to photograph the scene of the shooting from the bedroom that belonged to Witness [redacted] at the time of this incident **(Exhibit G)**. [redacted] provided investigators with the contact information of the apartment [redacted]. Mr. [redacted] confirmed [redacted] moved from the apartment complex in March of 2014, and did not have a forwarding address for them.

Using Department resources, IAB investigators discovered [redacted] had a recent address update to [redacted] At that address, investigators contacted [redacted] who indicated she [redacted] moved into the house in November of 2014. [redacted] indicated she did not have a forwarding address for [redacted] however, she knew [redacted] had [redacted] that resided near [redacted] and [redacted] in Los Angeles.

Investigators canvassed that area and found [redacted] cell phone [redacted]. [redacted] indicated her [redacted] had a [redacted] with [redacted] and [redacted] recently moved

to [redacted]

Investigators contacted [redacted] cell phone [redacted] and [redacted] at that address. They stated [redacted] moved out of the house one day prior to our contact, due to an argument with her [redacted] pertaining to her [redacted] Investigators left a Department business card with [redacted] and [redacted] asking them to have [redacted] contact IAB offices. [redacted] and [redacted] stated they did not know where [redacted] is currently living and she [redacted] left her cell phone at the house, which investigators verified, so they had no way to contact her.

On March 30, 2015, IAB investigators called [redacted] indicated her [redacted] told Witness [redacted] that investigators wanted to speak with her about the incident. She also said she believed her [redacted] was temporarily staying at [redacted] and that [redacted] had not retrieved her cell phone so she had no way of contacting her.

On April 1, 2015, IAB investigators went to [redacted] in search of Witness [redacted] Investigators contacted [redacted] who indicated her [redacted] nfd), is Witness [redacted] She further stated Witness [redacted] and [redacted] stayed overnight at her house on Thursday (March 25, 2015), but she had not seen or heard from them since. She said she has no idea where the couple has been staying and [redacted] does not have an operable cell phone. Investigators asked Miss [redacted] to advise Witness [redacted] to contact them. Upon submitting this administrative review, Witness [redacted] had not contacted IAB investigators.

Deputies Gonzalez and [redacted] voluntarily interviewed with Deputy District Attorney, Deborah Delport, on February 21, 2014 regarding this incident. Transcripts of those interviews are included in this administrative review.

INVOLVED PERSONNEL

Deputy [redacted] #[redacted]

Department Hire Date: [redacted]
Date Assigned to Century Station:
Date Completed Patrol Training:
Prior Shooting Incident(s):

Deputy Alexandro Gonzalez #[redacted]
Century Station Patrol
Unit 214E, Willowbrook

Department Hire Date: 04-15-1999
Date Assigned to Century Station: 05-20-2007
Date Completed Patrol Training : [redacted]
Prior Shooting Incident(s): [redacted]

SUSPECT

De La Trinidad, Jose, MH/12-03-1975 (Deceased)

Criminal History: CII #[redacted]

Suspect De La Trinidad's criminal history [redacted] His Consolidated Criminal History Report System (CCHRS) printout is included in the Homicide Book **(Exhibit A)**, pages 140 through 148.

Toxicology Finding: 0.23 BAC
Positive for Marijuana
Tests of the deceased suspect were conducted by the Los Angeles County Coroner Office

WITNESSES

Deputy Darrel Cusiter, #[redacted]
Century Station Patrol
Unit 214E, Willowbrook

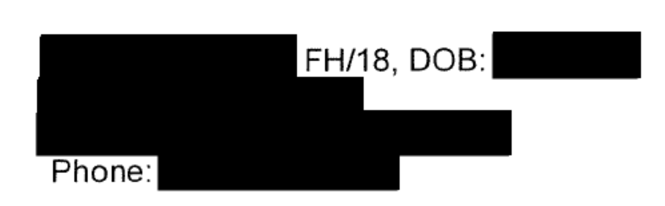
Deputy Erik Sibrian, #[redacted]
Century Station Patrol
Unit 213D, Athens

[redacted] MH/39, DOB: [redacted]

Jobe Daniel Augustine, #[redacted]
Los Angeles County Deputy Medical Examiner

Selena Barros, #[redacted]
Los Angeles County Coroner Investigator

The residential neighborhood near the shooting scene was canvassed for witnesses.



[redacted] FH/18, DOB: [redacted]
[redacted]
Phone: [redacted]

Additional persons were contacted by Homicide Bureau, however, those individuals only heard the gunshots, and did not see the actual shooting. Those contacts were documented in supplemental reports contained in the Homicide book (**Exhibit A**, pages 90-92).

INJURIES

Suspect Jose De La Trinidad – Seven gunshot wounds; Four fatal, (1) to the right upper back, (1) right side of middle back, (2) in the center of the back. Three non-fatal, (1) right lower back, (1) right hip, (1) outside of right forearm. Deceased.

PHYSICAL EVIDENCE

All physical evidence was collected and documented by Scientific Services Bureau personnel. See pages 70-78 in the Homicide Book (**Exhibit A**) for more information.

WEAPON USED BY DEPUTY [redacted]

Department issued Beretta 92FS, 9mm pistol, Serial# BER[redacted]& Department issued 9mm ammunition.

WEAPON USED BY DEPUTY ALEXANDRO GONZALEZ

Department issued Beretta 92FS, 9mm pistol, Serial# BER[redacted]& Department issued 9mm ammunition.

WEAPON USED BY SUSPECT

None.

PROPERTY DAMAGE

Following is a description of damage as indicated on the crime lab supplemental report in the Homicide Book, page 77.

Two bullet strikes to a brick wrought iron fence pillar, positioned in the front yard of [redacted] East 122nd Street, Los Angeles.

Three bullet strikes to the "Imagine the Possibilities" real estate sign in the front yard of

[redacted] East 122nd Street, Los Angeles.

One bullet strike to a plastic water hose container, affixed to the west wall of the residence at [redacted]

CRIMINAL INVESTIGATORS

Homicide Sergeant Donny Walls
Homicide Sergeant Sandra Nava

IAB INTERVIEW OF DEPUTY [redacted]

Deputy [redacted] was interviewed by Homicide Investigators on November 11, 2012. A summary of his interview may be found on pages 61 - 62 and 80 - 82 in the Homicide Investigation Book. Internal Affairs Bureau investigators reviewed the tape recording of the interview and found Homicide's summary of their interview to be an accurate account of what was said.

Deputy [redacted] was interviewed by Internal Affairs Bureau Investigators on March 4, 2015. Following is a summary of that interview. For more information and precise wording, see the attached verbatim interview transcription.

On November 10, 2012, Deputy [redacted] was assigned to [redacted] Station, Unit [redacted] with Deputy Erik Sibrian as his partner on PM shift. Deputy Sibrian was the driver and Deputy [redacted] was the bookman. At the time of this incident, Deputies [redacted] and Sibrian had been partners for approximately one year. They also had a working agreement that the responsibility for radio communication belonged to the bookman.

Deputy [redacted] said he and his partner decided to provide unsolicited back up on a traffic stop they saw on Wilmington Avenue, just north of El Segundo Boulevard. As he and his partner arrived behind the patrol car that initiated the traffic stop, he saw Deputy Gonzalez run back to his patrol car and yell to them, "417, go get them, go get them", as he pointed northward. Deputy [redacted] told Deputy Sibrian, "Let's go, let's go, 417." Deputy Sibrian drove around the patrol car that initiated the traffic stop (214E), then Deputy [redacted] saw the white vehicle driving northbound on Wilmington Avenue at a high rate of speed. The suspect vehicle turned eastbound on 122nd Street and lost control as it negotiated the turn. Deputy [redacted] believed the vehicle was going to crash into the apartment complex on the northeast corner of Wilmington Avenue and 122nd Street. After regaining control, the suspect vehicle continued eastbound on 122nd Street, which caused Deputy [redacted] to momentarily lose sight of it.

IAB Note: Later in the interview, Deputy [redacted] said the suspect vehicle was approximately fifteen to twenty feet in front of them when it made the eastbound turn onto 122nd Street from

Wilmington Avenue.

When Deputy Sibrian turned onto 122nd Street, Deputy [redacted] saw brake lights and realized the suspect vehicle double parked next to a silver car in front of [redacted] East 122nd Street. As he exited his patrol car, he saw the front passenger (Suspect Jose) open his door and exit the suspect vehicle. He saw Suspect Jose exit the vehicle with both hands in his waistband, while bent forward.

Suspect Jose ran south in front of the silver car, toward the sidewalk, with both hands in his waistband and hunched forward. Deputy [redacted] momentarily lost sight of him as he ran behind a tree near the parked car. Deputy [redacted] moved south toward the sidewalk to regain a visual of Suspect Jose. As he reached the apron of the driveway at [redacted] East 122nd Street, he saw Suspect Jose on the sidewalk, running toward him with his hands still in his waistband and still hunched forward. Suspect Jose looked in Deputy [redacted] direction, momentarily raised both hands to his mid-chest and said, "Oh shit." When he was approximately ten feet from Deputy [redacted] Suspect Jose reached down with both hands to his waistband, and while bending forward, he turned to his left (southward). Believing Suspect Jose was reaching for a weapon, and in fear for his life and the life of his partners, Deputy [redacted] shot at Suspect Jose.

In the moments after the shooting, he saw Suspect Jose facing south and a short time later, he collapsed to the ground. Deputy [redacted] broadcasted the emergent radio traffic and then he and Deputy Gonzalez approached Suspect Jose. Deputy [redacted] used his flashlight to illuminate Suspect Jose, while Deputy Gonzalez searched his waistband area and handcuffed him.

At the time of the shooting, Deputy [redacted] thought he was the only person who shot at Suspect Jose. He described his volley of shots as continuous, one right after another. He said he stopped shooting because he reassessed and realized he did not need to shoot anymore. He estimated the time between Suspect Jose exiting the suspect vehicle and the time he shot, to be between five and eight seconds. He said he saw a tree, some fences, and the side of a garage in his backdrop when he fired.

After Suspect Jose was handcuffed, he realized the suspect vehicle was no longer there, nor were there any radio cars. He remembered hearing Deputy Sibrian's radio traffic of being in pursuit and several units arriving at the shooting scene.

Deputy [redacted] estimated the suspect vehicle drove northbound Wilmington Avenue (from the initial traffic stop) fifteen to twenty seconds before it turned eastbound. He approximated he and Deputy Sibrian were twenty feet behind the suspect vehicle when it made an eastbound turn onto 122nd Street. Deputy [redacted] did not think there was ample time for him to broadcast any radio traffic, because the incident was evolving so rapidly. He did not consider he and his partner to be in pursuit as they drove northbound Wilmington Avenue behind the suspect vehicle, because they were just attempting to

catch up to it and there was a distance between them.

Deputy Gonzalez was interviewed by Homicide Investigators on November 11, 2012. A summary of his interview may be found on pages 62 - 64 and 82 - 83 in the Homicide Investigation Book. Internal Affairs Bureau investigators reviewed the tape recording of the interview and found Homicide's summary of their interview to be an accurate account of what was said.

Deputy Gonzalez was interviewed by Internal Affairs Investigators on March 18, 2015. Following is a summary of that interview. For more information and precise wording, see the attached verbatim interview transcription.

On November 10, 2012, **Deputy Alexandro Gonzalez** was working PM Unit 214E, with his partner, Darrel Cusiter. Deputy Cusiter was the driver, and Deputy Gonzalez was the bookman. At the time of this incident, he and Deputy Cusiter had been partners for approximately eight months. He said he and Deputy Cusiter would discuss tactical incidents on a regular basis, however, none of their discussions were similar to this event. He and Deputy Cusiter had an agreement that the bookman would be responsible for radio communication.

Deputy Gonzalez said he and his partner conducted a traffic stop of the suspect vehicle on Wilmington Avenue, north of El Segundo Boulevard. Prior to the stop, both deputies illuminated the suspect vehicle with their spotlights. As he neared the suspect vehicle, he noticed the driver looking over his right shoulder in his (Gonzalez') direction. He also saw the driver reaching in the area underneath the seat.

When Deputy Gonzalez got to the passenger side rear quarter panel area of the car, he looked through the rear windshield and saw the driver hand a gun to the passenger (Suspect Jose). Deputy Gonzalez stopped advancing toward the suspect vehicle and was about to get on the radio when the suspect vehicle drove away.

He ran back to his patrol car and noticed Unit [redacted] Deputies Sibrian and [redacted] in their patrol car behind them. From the rear of his trunk, Deputy Gonzalez yelled to them, "417 vehicle, go, go, go get them." Approximately two seconds later, Deputies Sibrian and [redacted] drove northbound Wilmington Avenue. When Sibrian and [redacted] were approximately fifty yards away, Deputies Cusiter and Gonzalez started driving northbound. Deputy Gonzalez lost sight of the suspect vehicle when it turned eastbound 122nd Street with the radio car behind it.

Deputy Gonzalez was going to initiate radio traffic when the suspect vehicle turned eastbound 122nd Street, but was disrupted when it pulled over. He and his partner came to a stop behind Deputies Sibrian and [redacted] and he (Gonzalez) immediately exited his patrol car. It appeared to him, he and Deputy [redacted] exited their patrol cars at the same time. As he (Gonzalez) was running toward Deputy [redacted] patrol car to

start a felony traffic stop, he saw Suspect Jose exit the suspect vehicle via the front passenger door.

Suspect Jose ran south between two parked cars while hunched over. Deputy [redacted] also moved in a southerly direction, toward the sidewalk, as Deputy Gonzalez positioned himself north of, and parallel to, Deputy [redacted] Suspect Jose ran west on the sidewalk toward Deputy [redacted] Deputy Gonzalez saw Suspect Jose look toward Deputy [redacted] and say "Oh shit," as he raised his hands to chest level. Suspect Jose then reached toward his left hip area with both hands while rotating his upper body downward toward his left hip. Believing Suspect Jose was attempting to retrieve a gun from his waistband to shoot at them, Deputy Gonzalez shot at him three times.

Deputy Gonzalez aimed at Suspect Jose's right back side (from the right shoulder to right hip area), because that was the part of his body that was exposed. Deputy Gonzalez did not know if his rounds hit Suspect Jose, but after firing his shots, Deputy Gonzalez saw Suspect Jose turn south toward a wrought iron fence and collapse to the ground. He said he stopped shooting because after his re-assessment, he no longer perceived a threat. He and Deputy [redacted] approached Suspect Jose, and Deputy Gonzalez searched his waistband area and handcuffed him.

Deputy [redacted] broadcasted the emergent radio traffic and requested medical aid for the suspect. Deputy Cusiter checked on their status and then left the scene to assist in establishing a containment and apprehending the second suspect who fled that scene.

Deputy Gonzalez indicated, in his opinion, pursuing the suspect vehicle after it fled from the initial traffic stop, was within Department policy.

IAB INTERVIEWS OF DEPUTY DARREL CUSITER AND DEPUTY ERICK SIBRIAN

Deputies Cusiter and Sibrian were interviewed by Homicide Investigators on November 11, 2012. A summary of their interviews may be found on page 24 in the Homicide Investigation Book. Internal Affairs Bureau investigators reviewed the tape recording of the interviews and found that Homicide's summary of their interviews to be an accurate account of what was said.

Deputy Cusiter was interviewed by Internal Affairs Bureau Investigators on March 4, 2015. Following is a summary of that interview. For more information and precise wording, see the attached verbatim interview transcription.

On November 10, 2012, Deputy **Darrel Cusiter** was working Unit 214E, an Athens district car, with his partner Deputy Alexandro Gonzalez. Deputy Cusiter was the driver and Deputy Gonzalez was the bookman. While patrolling, they saw a white four door car speeding westbound on El Segundo Boulevard. Deputy Cusiter made a U-turn to catch up to the white car and saw it make a northbound turn onto Wilmington Avenue,

against a red traffic signal. Deputy Cusiter turned northbound onto Wilmington Avenue and saw the white car in the number one lane, and its speed significantly decreased. The deputies queried the license plate to the white car, which revealed a recent registered owner change.

Deputy Cusiter activated the overhead lights of his patrol car to affect a traffic stop on Wilmington Avenue, just north of El Segundo Boulevard. The driver of the white car abruptly pulled to the right and stopped along the curb line. Deputy Cusiter illuminated the interior of the car with his spotlight; however, he was not sure if Deputy Gonzalez activated his spotlight. Deputy Cusiter approached the car on the driver's side and Deputy Gonzalez approached on the passenger side. When Deputy Cusiter was approximately two to three feet from the driver's side rear quarter panel area of the car, he looked into the car through the rear windshield (also utilizing a handheld flashlight and the flashlight attached to his duty firearm, Beretta 92FS) and saw the driver, Francisco, hand the front passenger, Suspect Jose, a black handgun. As he was mentally processing what he saw, the suspect vehicle sped away. He and Deputy Gonzalez immediately ran back to their patrol car and saw Unit [redacted] Deputies Sibrian and [redacted] arriving.

Deputy Cusiter could not remember specifically what he told Deputies Sibrian and [redacted] but he believed he made a statement referencing there was a gun in the suspect vehicle and to get them. He also heard his partner yelling to the other deputies, but he could not recall what he said. Deputies Sibrian (driver) and [redacted] (bookman) went in the same direction as the suspect vehicle and approximately five seconds later, Deputies Cusiter and Gonzalez began to follow them northbound on Wilmington Avenue. The suspect vehicle and Deputies Sibrian and [redacted] turned eastbound on 122nd Street from Wilmington Boulevard when Deputies Cusiter and Gonzalez were approximately fifty yards behind them.

As Deputy Cusiter turned eastbound onto 122nd Street, he saw the suspect vehicle stopped in the middle of the street with Unit [redacted] behind it. He saw Suspect Jose get out of the passenger side of the suspect vehicle simultaneously with Deputy [redacted] who exited the front passenger side of his patrol car [redacted]. Deputy Cusiter described the manner in which Suspect Jose exited the suspect vehicle as being crouched down and leaning forward with his hands in waistband area, as if he were holding something or trying not to drop something. Suspect Jose then ran southbound and ducked in front of a parked car, causing him (Deputy Cusiter) to lose sight of the suspect. He heard Deputy [redacted] yelling, "Hands, hands! Let me see your hands!" He then heard gunshots. He did not have a visual of the suspect when he heard the gunshots because he was looking in the area where he last saw the suspect. He indicated he was approximately twenty five feet northwest of Deputy [redacted] when he heard the gunshots. Approximately two to three seconds after hearing the gunshots, and moving from his position, he saw Suspect Jose leaning on a white wrought iron fence. Moments later, he saw Suspect Jose wither to the ground.

Deputy Cusiter estimated he heard five rapid gunshots. However, he was not able to remember any detail about the sequence of the shots, nor did he know who fired the shots. After seeing Suspect Jose wither down, and verifying the well-being of Deputies [redacted] and Gonzalez, he looked eastward and saw Deputy Sibrian and the suspect vehicle turn southbound on Willowbrook Avenue from 122nd Street. He got in his patrol car and drove eastbound on 122nd Street, which was the last direction he saw Deputy Sibrian and the suspect vehicle travel. By the time he (Cusiter) left the scene of the shooting, Deputy [redacted] was transmitting emergent radio traffic.

When Deputy Cusiter turned southbound onto Willowbrook Avenue, he did not see Deputy Sibrian's patrol car or the suspect vehicle. Moments later, he heard Deputy Sibrian broadcast something about Central Avenue, so he realized he needed to proceed westward. When Deputy Cusiter arrived at El Segundo Boulevard and Central Avenue, he saw Deputy Sibrian's inoperable patrol car. He checked on Deputy Sibrian's well-being. Deputy Sibrian told him the suspect continued west on El Segundo Boulevard.

Deputy Cusiter proceeded westbound and saw that the unoccupied suspect vehicle had come to a point of rest on top of the center island on El Segundo Boulevard, just west of Avalon Boulevard. He established a containment, and once he was detained, he positively identified [redacted] as the driver of the suspect vehicle.

When asked about the actions of the suspect vehicle fleeing from the initial traffic stop on Wilmington Avenue and El Segundo Boulevard, Deputy Cusiter stated he did not tell his partner (Deputy Gonzalez) to transmit any radio traffic. Deputy Cusiter indicated he did not broadcast any radio traffic for the following reasons: He was the driver, they had their assisting unit with them, and they were still trying to figure out what was going on and what they had. He said at the time of this incident, he and Deputy Gonzalez had been partners for approximately eight to nine months and occasionally discussed tactical incidents, which included pre-planning. They also had a working agreement that the bookman was responsible for the radio.

He stated when he drove northbound on Wilmington Avenue behind Deputies Sibrian and [redacted] and the suspect vehicle, he was not trying to apprehend the car. He was trying to conduct another traffic stop. He said he did not consider himself in pursuit because of the short distance and the time that had elapsed. He said his understanding of Department policy would not allow him to pursue the suspect vehicle based on the information he had at that point in the incident. A short time later in the interview, he indicated he was trying to catch up to the car to detain them. He also agreed that the suspect vehicle fleeing the initial traffic stop "could be" an overt act of someone trying to get away from the police.

Deputy Sibrian was interviewed by IAB investigators on March 4, 2015. Following is a

summary of that interview. For more information and precise wording, see the attached verbatim interview transcription.

On November 11, 2012, Deputy **Erik Sibrian** was working Unit [redacted] a Willowbrook district car, with Deputy [redacted] as his partner. During this shift, Deputy Sibrian was the driver and Deputy [redacted] was the bookman. At the time of this incident, he and Deputy [redacted] had been partners for a few months. They had a working agreement that radio communication was the responsibility of the bookman, and they frequently conversed about tactical incidents as partners.

Deputy Sibrian and his partner saw another patrol car conducting a traffic stop on Wilmington Avenue just north of El Segundo Boulevard, so they decided to pull in behind them as a back-up unit. As they arrived, he saw Deputies Cusiter and Gonzalez running back toward their patrol car. He saw Deputy Gonzalez pointing northbound Wilmington Avenue, but he did not hear what he was saying. Deputy [redacted] immediately told him to go after the car because the occupant(s) were in possession of a firearm.

He maneuvered around 214E's patrol car and saw the suspect vehicle traveling northbound on Wilmington Avenue at a high rate of speed. The suspect vehicle turned eastbound on 122nd Street from Wilmington Avenue, and temporarily lost control while negotiating the turn. Deputy Sibrian turned eastbound on 122nd Street and saw the suspect vehicle coming to a stop. Deputy Sibrian positioned his patrol car behind the suspect vehicle and saw the front passenger (Suspect Jose) get out of the car. He described the manner in which Suspect Jose exited the car as crouched down while leaning forward, and reaching toward his waistband with his right hand, as if he was holding onto something. He could not see Suspect Jose's right hand.

Deputy Sibrian saw Deputy [redacted] get out of their patrol car, but he lost sight of him and Suspect Jose, because he was focused on the driver of the suspect vehicle. Moments later, he heard approximately three to four gunshots, but did not know who shot. He did not hear anyone say anything before hearing the gunshots. Upon hearing the gunshots, the suspect vehicle fled eastbound on 122nd Street at a high rate of speed, then he heard the emergent radio traffic being transmitted over the radio. After ensuring the safety of deputy personnel, he pursued the suspect vehicle. Deputy Sibrian's involvement in the pursuit ended when he crashed into the center median of westbound El Segundo Boulevard at Central Avenue. For additional information pertaining to Deputy Sibrian's traffic collision, refer to pages 97 – 125 of the Homicide Book **(Exhibit A)**.

When asked about following the suspect vehicle northbound on Wilmington Avenue from the initial traffic stop, Deputy Sibrian said he thought the suspects were trying to flee. However, he did not consider himself in pursuit because he did not have on his red lights and siren and he did not think the suspects knew he (Sibrian) was behind them.

WITNESS STATEMENTS

Witness [redacted] was interviewed by Homicide Investigators on November 20, 2012, as an eye witness. She told them she looked out her bedroom window and saw a light colored compact vehicle, parked in the middle of the street, with one patrol car behind it. As she continued to watch, she saw a male exit the right front passenger door of the suspect vehicle and run south on the sidewalk toward three deputies who were also on the sidewalk. She heard a deputy shout for the male to stop, and he complied. He then raised both hands, placed them behind his head, and faced southward toward the houses. The deputies then shot him and she saw him fall to the sidewalk. A deputy approached the male who had been shot, and at that time she stopped watching and made no further observations. A summary of her interview may be found in the Homicide Investigation Book **(Exhibit A)** on pages 87 - 90. Internal Affairs Bureau investigators reviewed the tape recording of the interview and found that Homicide's summary of that interview was an accurate account of what was said.

Homicide Bureau investigators interviewed Witness [redacted] the driver of the suspect vehicle and [redacted] of Suspect Jose. He did not witness the deputy involved shooting, he only heard the shots as he drove away from the scene after his [redacted] fled from the car. He told investigators, Suspect Jose could not lift his bad arm and when he (Suspect Jose) ran, he carried his disabled arm down by his waistband. Summaries of his interview can be found on pages 68 – 69 and 94 – 96 of the Homicide Book **(Exhibit A)**.

Audio files of these two interviews are on a compact disc, **Exhibit H**.

Internal Affairs Bureau investigators interviewed Witnesses Augustine and Barros. Prior to their interviews, both witnesses requested not to be recorded.

Witness Augustine is a Los Angeles County Deputy Medical Examiner and performed the autopsy of Suspect Jose De la Trinidad. IAB investigators explained the reason they wanted to interview him, was to determine if the trajectory of the bullets that struck the suspect would sustain or contradict Witness [redacted] statement that Suspect Jose was facing south, with his hands behind his head, at the time he was shot. Or, if the trajectory of the bullets would support the deputies' statement, that the suspect was hunched slightly forward and rotating his upper body downward, toward his left, at the time they fired their weapons.

He stated he was unable to determine if the suspect was moving or stationary when struck by the gunfire. He explained the bullet wounds had enough ambiguity to support both possible scenarios.

Investigators discussed each gunshot wound with the doctor. He based his opinion of

the trajectory of gunshot wounds one and two, on skin surface abrasions and the tissue injury pathway. He relied on the tissue injury pathway to determine the trajectory of gunshot wounds four, five, and six. He described gunshot wound three as a shallow injury. The bullet he removed from the decedent was a flattened copper jacketed bullet, which led him to believe the bullet struck an intermediate target prior to impacting the body. The bullet stayed in the soft tissue of the back and had a right to left trajectory. Gunshot wound seven entered from the back side of the right forearm. He was unable to determine if the arm was in a downward position or upward toward the head at the time of impact. He also stated, based on the autopsy, he was unable to determine if loss of function to the left arm was present.

Witness Barros is a Los Angeles County Coroner Investigator. She interviewed Suspect Jose's [redacted] During the interview, they discussed Suspect Jose's left arm. [redacted] told Investigator Barros, Suspect Jose injured his left arm in a car accident a few years ago. She described his left arm being "de-gloved" and had become partially detached. Ever since the injury, Suspect Jose had no feeling in his arm, was unable to control the arm, and would occasionally have to move the arm with his other hand. For additional information refer to Investigator Barros' report on page 201 of the Homicide Book, **Exhibit A**.

Internal Affairs Bureau investigators explained to Witness Barros, they wanted to clarify some topics she wrote in her report. Investigators asked her if [redacted] used the terms "de-gloved" and "partially detached" during their conversation. She stated she (Barros) used those terms in her report based on the context of the conversation she had with [redacted] She remembered [redacted] told her, Suspect Jose had no feeling in the arm and was unable to control it.

When asked if Suspect Jose could raise his arms above his head, she said she did not think so because [redacted] told her, Jose could not control the arm. Witness Barros defined "de-gloved" as the skin peeling off or taken off. She explained she used the term "partially detached" in her report to mean at the time of Suspect Jose's previous arm injury, his left arm was partially detached from his body.

ADDITIONAL INFORMATION

During the course of this force review, it was noted no pursuit package was submitted by Century Station personnel for the first pursuit, which occurred after the initial traffic stop. A Pursuit Evaluation Form was subsequently completed, and is submitted as **Exhibit I**.

> **IAB Note: Exhibit C documents the pursuit that occurred after the deputy involved shooting.**



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
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May 27, 2014

Captain Duane Harris
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File # 12-0744
L.A.S.D. File # 012-16889-2137-013

Dear Captain Harris:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 10, 2012, fatal shooting of Jose De la Trinidad by Los Angeles County Sheriff Deputies [redacted] and Alexandro Gonzalez. It is our conclusion that Deputies [redacted] and Gonzalez acted in lawful self-defense and defense of others.

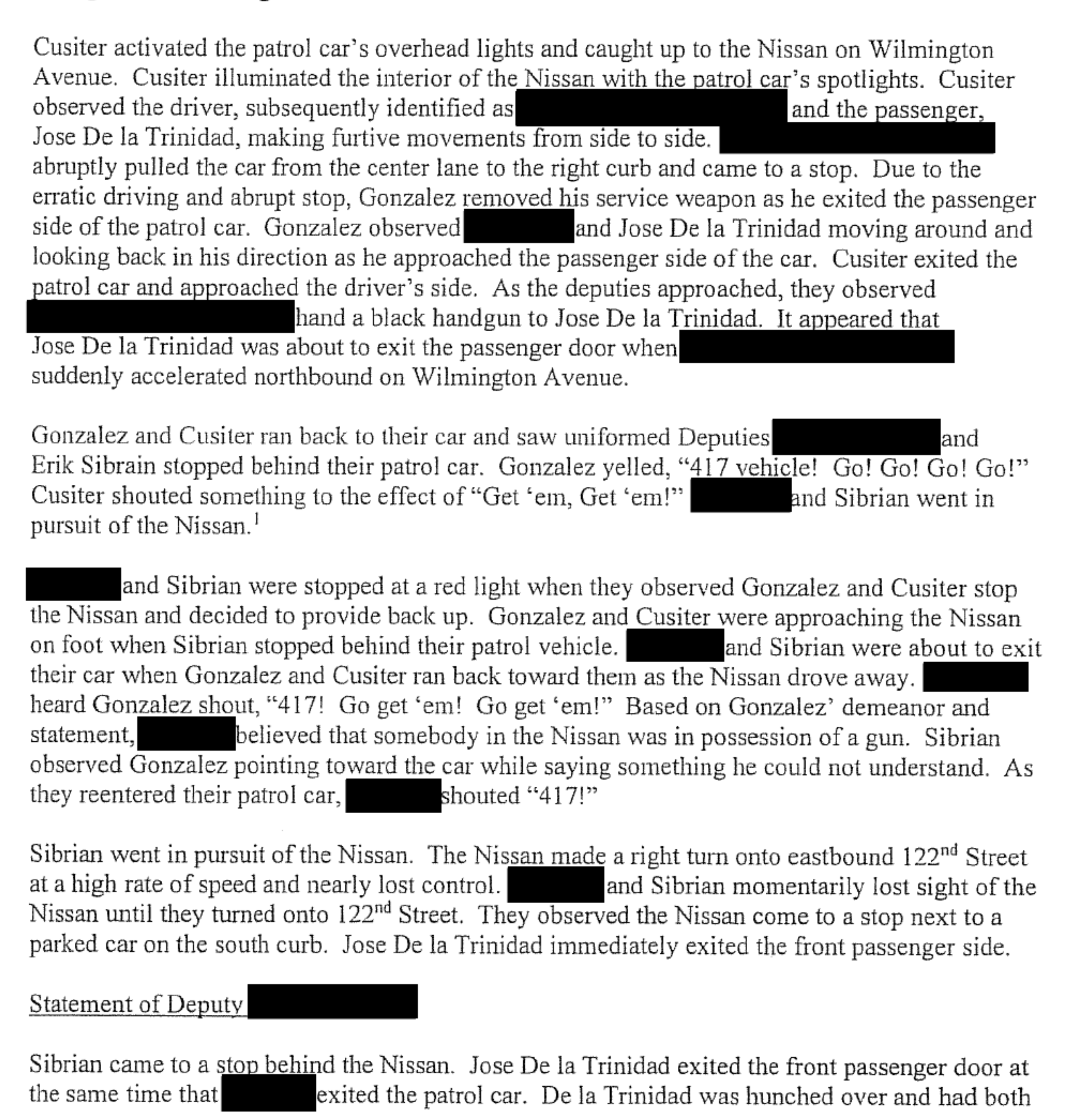
The District Attorney's Command Center was notified of the shooting on November 10, 2012, at approximately 11:35 p.m. The District Attorney Response Team, comprised of Deputy District Attorney Deborah Delport and District Attorney Senior Investigator [redacted] responded and was given a briefing and a walk-through of the scene.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by LASD, Homicide Bureau, and interviews conducted by the District Attorney's Office. Deputies [redacted] and Gonzalez provided voluntary statements which were considered as part of this analysis.

FACTUAL ANALYSIS

On November 10, 2012, shortly after 10:00 p.m., LASD Deputies Alexandro Gonzalez and Darrel Cusiter were working uniformed patrol in a marked black and white police car traveling eastbound on El Segundo Boulevard. The deputies observed a beige Nissan traveling westbound on El Segundo Boulevard at a high rate of speed. Cusiter made a u-turn on El Segundo

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Boulevard in order to initiate a traffic stop of the Nissan. The Nissan made a right turn against a red light onto Wilmington Avenue.

Cusiter activated the patrol car's overhead lights and caught up to the Nissan on Wilmington Avenue. Cusiter illuminated the interior of the Nissan with the patrol car's spotlights. Cusiter observed the driver, subsequently identified as [redacted] and the passenger, Jose De la Trinidad, making furtive movements from side to side. [redacted] abruptly pulled the car from the center lane to the right curb and came to a stop. Due to the erratic driving and abrupt stop, Gonzalez removed his service weapon as he exited the passenger side of the patrol car. Gonzalez observed [redacted] and Jose De la Trinidad moving around and looking back in his direction as he approached the passenger side of the car. Cusiter exited the patrol car and approached the driver's side. As the deputies approached, they observed [redacted] hand a black handgun to Jose De la Trinidad. It appeared that Jose De la Trinidad was about to exit the passenger door when [redacted] suddenly accelerated northbound on Wilmington Avenue.

Gonzalez and Cusiter ran back to their car and saw uniformed Deputies [redacted] and Erik Sibrain stopped behind their patrol car. Gonzalez yelled, "417 vehicle! Go! Go! Go! Go!" Cusiter shouted something to the effect of "Get 'em, Get 'em!" [redacted] and Sibrian went in pursuit of the Nissan.[1]

[redacted] and Sibrian were stopped at a red light when they observed Gonzalez and Cusiter stop the Nissan and decided to provide back up. Gonzalez and Cusiter were approaching the Nissan on foot when Sibrian stopped behind their patrol vehicle. [redacted] and Sibrian were about to exit their car when Gonzalez and Cusiter ran back toward them as the Nissan drove away. [redacted] heard Gonzalez shout, "417! Go get 'em! Go get 'em!" Based on Gonzalez' demeanor and statement, [redacted] believed that somebody in the Nissan was in possession of a gun. Sibrian observed Gonzalez pointing toward the car while saying something he could not understand. As they reentered their patrol car, [redacted] shouted "417!"

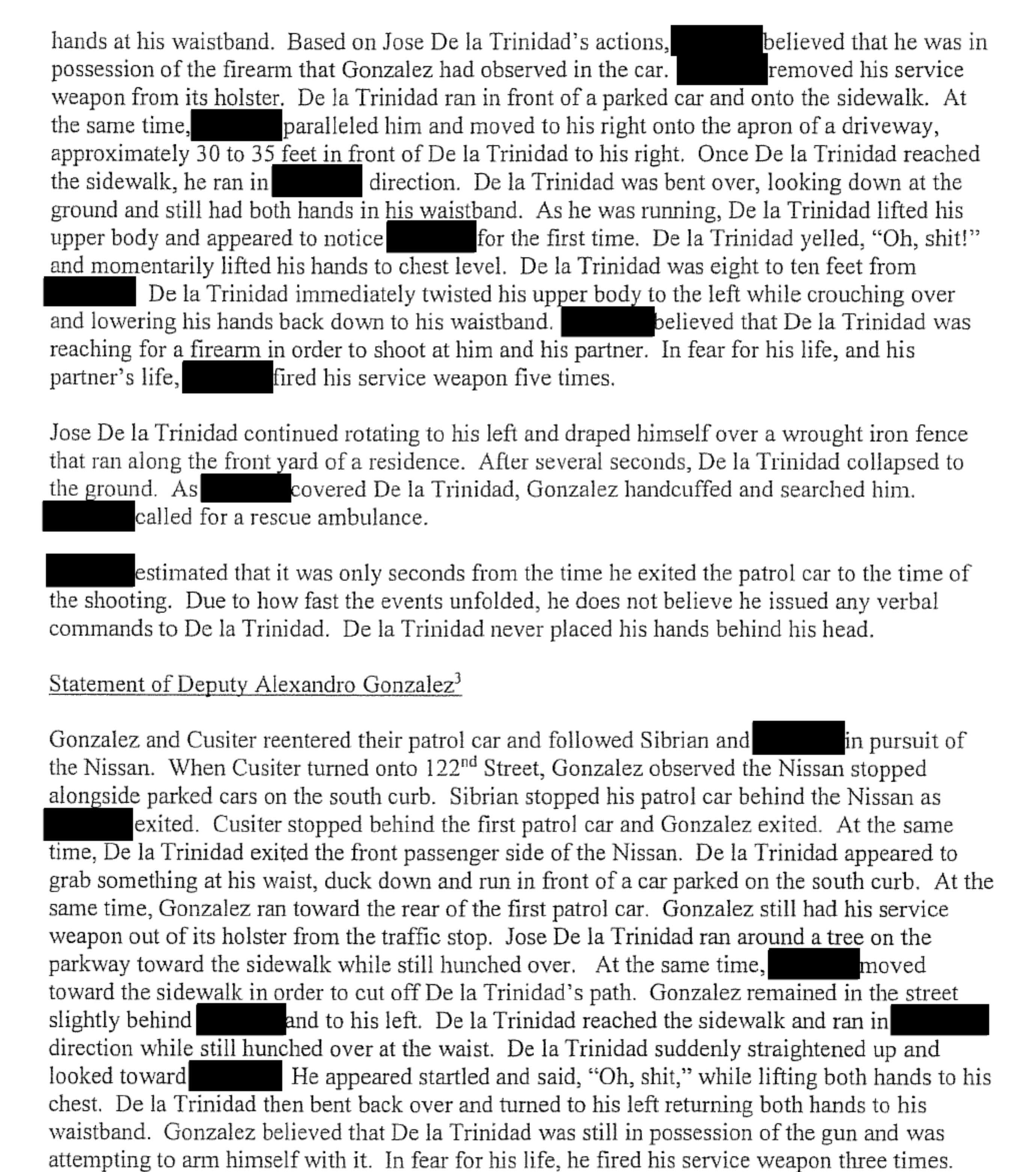
Sibrian went in pursuit of the Nissan. The Nissan made a right turn onto eastbound 122nd Street at a high rate of speed and nearly lost control. [redacted] and Sibrian momentarily lost sight of the Nissan until they turned onto 122nd Street. They observed the Nissan come to a stop next to a parked car on the south curb. Jose De la Trinidad immediately exited the front passenger side.

Statement of Deputy [redacted]

Sibrian came to a stop behind the Nissan. Jose De la Trinidad exited the front passenger door at the same time that [redacted] exited the patrol car. De la Trinidad was hunched over and had both

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[1] "417" references the crime of brandishing a firearm pursuant to Penal Code section 417. It is common practice for law enforcement officers to use the term "417" to communicate the presence of a gun to their fellow officers.
[2] [redacted] statement is based on the initial interview with Homicide investigators on November 11, 2012, and a second interview conducted at the District Attorney's Office on February 21, 2014.



hands at his waistband. Based on Jose De la Trinidad's actions, [redacted] believed that he was in possession of the firearm that Gonzalez had observed in the car. [redacted] removed his service weapon from its holster. De la Trinidad ran in front of a parked car and onto the sidewalk. At the same time, [redacted] paralleled him and moved to his right onto the apron of a driveway, approximately 30 to 35 feet in front of De la Trinidad to his right. Once De la Trinidad reached the sidewalk, he ran in [redacted] direction. De la Trinidad was bent over, looking down at the ground and still had both hands in his waistband. As he was running, De la Trinidad lifted his upper body and appeared to notice [redacted] for the first time. De la Trinidad yelled, "Oh, shit!" and momentarily lifted his hands to chest level. De la Trinidad was eight to ten feet from [redacted] De la Trinidad immediately twisted his upper body to the left while crouching over and lowering his hands back down to his waistband. [redacted] believed that De la Trinidad was reaching for a firearm in order to shoot at him and his partner. In fear for his life, and his partner's life, [redacted] fired his service weapon five times.

Jose De la Trinidad continued rotating to his left and draped himself over a wrought iron fence that ran along the front yard of a residence. After several seconds, De la Trinidad collapsed to the ground. As [redacted] covered De la Trinidad, Gonzalez handcuffed and searched him. [redacted] called for a rescue ambulance.

[redacted] estimated that it was only seconds from the time he exited the patrol car to the time of the shooting. Due to how fast the events unfolded, he does not believe he issued any verbal commands to De la Trinidad. De la Trinidad never placed his hands behind his head.

Statement of Deputy Alexandro Gonzalez[3]

Gonzalez and Cusiter reentered their patrol car and followed Sibrian and [redacted] in pursuit of the Nissan. When Cusiter turned onto 122nd Street, Gonzalez observed the Nissan stopped alongside parked cars on the south curb. Sibrian stopped his patrol car behind the Nissan as [redacted] exited. Cusiter stopped behind the first patrol car and Gonzalez exited. At the same time, De la Trinidad exited the front passenger side of the Nissan. De la Trinidad appeared to grab something at his waist, duck down and run in front of a car parked on the south curb. At the same time, Gonzalez ran toward the rear of the first patrol car. Gonzalez still had his service weapon out of its holster from the traffic stop. Jose De la Trinidad ran around a tree on the parkway toward the sidewalk while still hunched over. At the same time, [redacted] moved toward the sidewalk in order to cut off De la Trinidad's path. Gonzalez remained in the street slightly behind [redacted] and to his left. De la Trinidad reached the sidewalk and ran in [redacted] direction while still hunched over at the waist. De la Trinidad suddenly straightened up and looked toward [redacted] He appeared startled and said, "Oh, shit," while lifting both hands to his chest. De la Trinidad then bent back over and turned to his left returning both hands to his waistband. Gonzalez believed that De la Trinidad was still in possession of the gun and was attempting to arm himself with it. In fear for his life, he fired his service weapon three times.

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[3] Gonzalez' statement is based on the initial interview with Homicide investigators on November 11, 2012, and a second interview conducted at the District Attorney's Office on February 21, 2014.

He heard [redacted] firing his service weapon at the same time. During the gunfire, De la Trinidad turned toward the residences and fell atop a fence. After the gunfire, De la Trinidad fell to the ground. Gonzalez searched De la Trinidad but did not recover a firearm. De la Trinidad never placed his hands behind his head.

Statement of Deputy Darrel Cusiter

Jose De la Trinidad exited the right front passenger side of the Nissan as Cusiter stopped his patrol car behind [redacted] and Sibrian on 122nd Street. [redacted] was already out of his patrol car as Gonzalez exited their patrol car. De la Trinidad was hunched over and holding his waistband as he walked toward the residences on the south side of the street. Cusiter could see De la Trinidad's elbows but could not see his hands. [redacted] and Gonzalez were pointing their service weapons at De la Trinidad. Cusiter exited his patrol car. As he ran to the front of the patrol car, Cusiter heard gunshots. He looked toward the sidewalk and saw De la Trinidad leaning over a white gate. Immediately after the gunfire, the Nissan fled eastbound on 122nd Street followed by Sibrian. After ascertaining that Gonzalez and [redacted] were safe, Cusiter went in pursuit of the Nissan.

Statement of Deputy Erik Sibrian

Jose De la Trinidad was leaning forward and appeared to be holding something in his waistband as he exited the front passenger side of the Nissan. Sibrian stopped his patrol car behind the Nissan as [redacted] exited their vehicle. Sibrian focused his attention on [redacted] who was still seated in the Nissan. Sibrian was unsure who had possession of the outstanding firearm and feared that [redacted] could exit the car and begin shooting. Sibrian was also concerned that [redacted] may attempt to flee. Sibrian last observed Jose De la Trinidad walking away from the Nissan. Sibrian heard gunshots. He looked in the direction of the gunfire and immediately heard the screeching of tires. He turned back to see the Nissan had fled eastbound on 122nd Street. In his rear view mirror, he observed Cusiter and Gonzalez' patrol car stopped behind him. Sibrian went in pursuit of the Nissan.

Vehicle Pursuit

Sibrian pursued the Nissan eastbound on 122nd Street to southbound Willowbrook Avenue. The Nissan nearly lost control while making the right hand turn. Sibrian activated the patrol car's red lights and sirens. [redacted] drove erratically in and out of traffic and on the wrong side of the road. Vehicles were forced to move out of the Nissan's way in order to avoid a collision. [redacted] turned westbound onto El Segundo Boulevard and immediately drove in the eastbound lanes. He veered back into the westbound lanes at a high rate of speed. As Sibrian was following [redacted] Sibrian collided with the center median disabling his patrol car. Cusiter arrived at the scene and Sibrian directed him westbound on El Segundo Boulevard toward Central Avenue. Cusiter located the Nissan approximately a half mile down the road just west of Avalon Avenue. It was resting on the center median and [redacted] had fled the scene.

A perimeter was established and a search for [redacted] was conducted. [redacted] was located over an hour later in the backyard of a residence approximately a quarter of a mile from where he crashed the Nissan. The exact path [redacted] took from the Nissan to the backyard could not be determined. A search of the backyard and surrounding residential neighborhood was conducted. A firearm was never located during the course of the investigation.

Statement of [redacted]

[redacted] lives in the residence [redacted] from the officer involved shooting. At the time of the shooting, she was in her second floor bedroom. The window of her bedroom faces south onto 122nd Street and has an unobstructed view of the shooting location.

[redacted] was at her computer when she heard the sound of screeching tires. She looked outside her bedroom window and saw a light colored car stopped in the middle of the street. There was a black and white patrol car stopped behind it. Jose De la Trinidad exited the right front passenger side of the car and ran toward the south sidewalk. De la Trinidad ran west on the sidewalk toward three uniformed deputies. A deputy ordered De la Trinidad to stop. De la Trinidad stopped, raised both hands and placed them on the back of his head. De la Trinidad turned to his left and faced the residences on the south side of the street. At that time, the deputies fired their service weapons and De la Trinidad fell to the sidewalk.

Statement of [redacted]

Initially, [redacted] denied knowing who was in the Nissan with him. He eventually admitted that his [redacted] Jose, was the front seat passenger. [redacted] told investigators that he was drunk and speeding when deputies initiated the traffic stop. After pulling to the curb, he remembered that he had methamphetamine in his sock. [redacted] reached down to his ankle and retrieved it. He fled from the deputies so he could get rid of the drugs. [redacted] swallowed the drugs while fleeing.[4]

Jose asked [redacted] to stop during the pursuit so he could get out of the car. Jose told [redacted] that he would get "cuffed up" outside of the car and [redacted] could take the deputies for a ride. [redacted] stopped the Nissan in the street and Jose exited the car. [redacted] immediately sped away. As he was fleeing, [redacted] heard gunshots.

[redacted] denied having a gun in his possession. He denied passing a gun, or any other object, to Jose while in the Nissan. [redacted] advised investigators that Jose had a bad arm as a result of an injury that required surgery. Jose could not lift his bad arm and carried it down by his waistband when he ran.

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[4] [redacted] was on felony probation for [redacted] He [redacted]

Statement of [redacted]

[redacted] is the [redacted] of the [redacted] located in the City of Marina Del Rey. [redacted] Jose De la Trinidad at the store. [redacted] initially [redacted] De la Trinidad approximately five years ago. He supervised De la Trinidad a second time when De la Trinidad returned to work after being injured in a car accident. De la Trinidad was off work for an extended period of time due to his injuries. When De la Trinidad returned to work, he had restrictions due to a permanent injury to his left arm. His left arm was disabled and he was unable to do any heavy lifting. The company was able to accommodate him. De la Trinidad's arm hung down to his side and [redacted] could not recall ever seeing him use that arm to carry anything. [redacted] described De la Trinidad's left arm as a "dead arm."

Autopsy Report

Los Angeles County Deputy Medical Examiner J. Daniel Augustine, M.D., performed a postmortem examination of Jose De la Trinidad on November 13, 2012. De la Trinidad sustained four fatal gunshot wounds, one to the right upper back, one to the right side of the middle back and two to the center of the back. There were also three nonfatal gunshot wounds, one to the right side of the lower back, one to the posterolateral right hip and one to the outside of the right forearm between the elbow and the wrist.[5] Six of the gunshot wounds had a right to left trajectory, each entering at a slightly different angle. Five of the gunshot wounds traveled upward to varying degrees.[6]

De la Trinidad's lower left forearm and wrist region was surrounded by a 5-inch long area of scarring, consistent with an area of prior skin grafting. A review of the x-rays taken at the autopsy revealed the presence of an orthopedic plate on his lower left radius. There were multiple surgical staples present within his lower left forearm soft tissues. The lower portion of De la Trinidad's left ulna was absent.[7]

The toxicology report revealed that De la Trinidad had a 0.23% blood alcohol level and tested positive for the presence of marijuana at the time of his death.

LEGAL ANALYSIS

California law provides that the use of deadly force in self-defense or in defense of others is justifiable if the person claiming the right of self-defense or the defense of others honestly believes that he or others were in imminent danger of great bodily injury or death, and a reasonable person in the same circumstances would also deem it necessary to use deadly force in

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[5] Based on the fact that [redacted] fired his service weapon five times and Gonzalez fired three times, both deputies struck De La Trinidad. There was no ballistic analysis done to determine which gunshot was caused by each deputy.
[6] One of the gunshot wounds to the center back had no upward or downward trajectory. Dr. Augustine only noted a back to front trajectory for the gunshot wound to the right forearm.
[7] The radius and ulna are the two bones forming the lower arm. The radius connects to the thumb side of the wrist.

order to protect themselves or others from the deadly peril. Cal. Penal Code § 197; *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also* CALCRIM No. 505.

Actual danger is not necessary to justify the use of force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon these circumstances. The right to self defense is the same whether the danger is real or apparent. *People v. Toledo* (1948) 85 Cal.App. 2d 577, 580.

"If the defendant acted from reasonable and honest convictions he cannot be held criminally responsible for a mistake in the actual extent of the danger, when other reasonable men would alike have been mistaken." *People v. Jackson* (1965) 233 Cal.App. 2d 639, 642.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation." *Graham v. Conner* (1989) 490 U.S. 386, 396-397.

In *Graham*, the United States Supreme Court held that the reasonableness of the force used "requires careful attention to the facts and circumstances of each particular case." "Thus we must avoid substituting our personal notions of proper police procedures for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes 'reasonable' action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure." *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say that he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App. 2d 575, 589.

The test of whether the officer's actions were objectively reasonable is "highly deferential to the police officer's need to protect himself and others". *Munoz v. City of Union City* (2004) 120 Cal.App. 4th 1077, 1102.

"An officer is not constitutionally required to wait until he sets eyes upon the weapon before employing deadly force to protect himself against a fleeing suspect who turns and moves as though to draw a gun." *Thompson v. Hubbard* (2001) 257 F.3d 896, 899. See *Ryder v. City of Topeka* (1987) 814 F.2d 1412, 1419 (concluding that, because a requirement that a suspect actually have a weapon would place police in "a dangerous and unreasonable situation ...

whether a particular seizure is reasonable is dependent on the 'totality of circumstances,' and not simply on whether the suspect was actually armed.")

CONCLUSION

The evidence examined in this investigation shows that Deputies [redacted] and Gonzalez were in pursuit of an individual they reasonably believed to be in possession of a firearm. Although at the time of the shooting De la Trinidad was unarmed, moments earlier, Gonzalez observed [redacted] hand Jose De la Trinidad a black handgun while the Nissan was stopped on El Segundo Boulevard. Deputy Cusiter also observed [redacted] hand the gun to Jose De la Trinidad. As the Nissan fled, Gonzalez and Cusiter advised [redacted] and Sibrian that there was a firearm in the Nissan. A plausible explanation for the gun's absence at the time of the shooting is that the firearm remained in the Nissan and [redacted] discarded it while he was evading arrest for over an hour. Although mistaken that their lives were in actual danger from Jose De la Trinidad, [redacted] and Gonzalez acted in good faith when they discharged their firearms resulting in De la Trinidad's death. The issue is whether, in addition to their good faith, the deputies "reasonably believed" that they were in imminent threat of death or great bodily injury at the time they discharged their firearms.

All four deputies observed De la Trinidad hunched over with his hands at his waistband upon exiting the Nissan on 122nd Street. Gonzalez and Sibrian both described De la Trinidad as if he was grabbing or holding something at his waist. De la Trinidad's actions were consistent with someone concealing a firearm in their waistband. De la Trinidad continued to run in this position until he lifted his head and upper body to find Deputy [redacted] standing ten feet away from him on the driveway apron. Startled, he momentarily removed his hands from his waist. However, De la Trinidad immediately crouched back over and returned his hands to his waistband while rotating to his left away from the deputies. De la Trinidad's movements caused [redacted] and Gonzalez to reasonably fear that De la Trinidad was arming himself with the outstanding firearm that Gonzalez last saw in his possession. In fear that De la Trinidad was about to shoot them and their fellow deputies, [redacted] and Gonzalez responded with deadly force.

[redacted] stated that at the time of the shooting, Jose De la Trinidad had come to a stop and was facing the residences on the south side of the street with both hands behind his head. The fact that both hands were behind his head appears to be inconsistent with the disabling injury he sustained to his left forearm from a prior automobile accident. The severity of the injury was corroborated by the autopsy conducted by Dr. Augustine. [redacted] who was unaware of [redacted] statement, told investigators that Jose could not lift his bad arm and carried it down by his waistband when he ran. [redacted] Jose's [redacted] indicated that he always observed De la Trinidad's left arm hanging by his side and described it as a "dead arm."

Additionally, the right to left trajectory of the gunshot wound tracks, as well as the slight variance among the angles, is consistent with Gonzalez and [redacted] description that they were to the right of De la Trinidad as he actively rotated his body to the left and away from the

deputies during the shooting. The angle variation can also be explained by the fact that De la Trinidad was shot by both deputies, who were in different positions relative to De la Trinidad.

We conclude that Deputies [redacted] and Alexandro Gonzalez acted in lawful self-defense and defense of another when they used deadly force against Jose De la Trinidad. We are therefore closing our file and will take no further action in this manner.

Very truly yours,

JACKIE LACEY
District Attorney

By *Deborah A. Delport*

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Deputy District Attorney
(213) 974-3888

c: Deputy [redacted] #[redacted]
Deputy Alexandro Gonzalez, #[redacted]